

JASON M. FRIERSON
 United States Attorney
 District of Nevada
 Nevada Bar Number 7709
 JEAN N. RIPLEY
 Assistant United States Attorney
 501 Las Vegas Boulevard South, Suite 1100
 Las Vegas, Nevada 89101
 Tel: (702) 388-6336
 Jean.Ripley@usdoj.gov

Attorneys for the United States

**UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSHUA A. CORFEE,

Defendant.

No. 2:23-cr-00074-JAD-DJA

**Plea Agreement for Defendant Joshua A.
 Corfee Pursuant to Fed. R. Crim. P.
 11(c)(1)(A) and (B)**

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
March 25, 2024	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY:	DEPUTY

This plea agreement between Joshua A. Corfee (“defendant”) and the United States Attorney’s Office for the District of Nevada (the “USAO”) sets forth the parties’ agreement regarding the criminal charges referenced herein and the applicable sentences and fines in the above-captioned case. This agreement binds only defendant and the USAO and does not bind the district court, the U.S. Probation Office, or any other federal, state, local, or foreign prosecuting, enforcement, administrative, or regulatory authorities. This agreement does not prohibit the USAO or any agency or third party from seeking any other civil or administrative remedies, including administrative forfeiture or civil forfeiture *in rem* actions, directly or indirectly against defendant or defendant’s property.

This agreement becomes effective upon signature by defendant, defendant’s counsel, and an Assistant United States Attorney.

I. DEFENDANT'S OBLIGATIONS

1. Defendant agrees to:

- a. At the earliest opportunity requested by the USAO and provided by the district court, appear and plead guilty to Count Three of the indictment in this case, which charges defendant with false information and hoax in violation of 18 U.S.C. § 1038(a)(1)(A);
- b. Stipulate to the facts agreed to in this agreement;
- c. Abide by all agreements regarding sentencing contained in this agreement;
- d. Not seek to withdraw defendant's guilty plea once it is entered;
- e. Not request release or seek to modify the existing pre-trial order of detention;
- f. Appear for all court appearances, surrender as ordered for service of sentence, obey all conditions of any bond, and obey any other ongoing court order in this matter;
- g. Not commit any federal, state, or local crime; and
- h. Be truthful at all times with the U.S. Probation and Pretrial Services Offices and the Court.

II. THE USAO'S OBLIGATIONS

2. The USAO agrees to:

- a. Stipulate to facts agreed to in this agreement;
- b. Abide by all agreements regarding sentencing contained in this agreement;
- c. At sentencing, provided that defendant demonstrates an acceptance of responsibility for the offense up to and including the time of sentencing, recommend a two-level reduction in the applicable sentencing guidelines offense level, pursuant to USSG § 3E1.1, and move for an additional one-level reduction if available under that section;

d. At sentencing, move to dismiss the remaining counts of the indictment as against defendant. Defendant agrees, however, that the district court may consider any dismissed charges in determining the applicable sentencing guidelines range, the propriety and extent of any departure from that range, and the sentence to be imposed; and

e. Not bring any additional charges against defendant arising out of the investigation in the District of Nevada which culminated in this agreement and based on conduct known to the USAO. However, the USAO reserves the right to prosecute defendant for (a) any crime of violence as defined by 18 U.S.C. § 16; and (b) any criminal tax violations (including conspiracy to commit such violations chargeable under 18 U.S.C. § 371). Defendant agrees that the district court at sentencing may consider any uncharged conduct in determining the applicable sentencing guidelines range, the propriety and extent of any departure from that range, and the sentence to be imposed after consideration of the sentencing guidelines and all other relevant factors under 18 U.S.C. § 3553(a).

III. ELEMENTS OF THE OFFENSE

3. Count Three: The elements of false information and hoax under 18 U.S.C. § 1038(a)(1)(A) are as follows:

First: The defendant intentionally conveyed false or misleading information.

Second: The information was conveyed under circumstances where a reasonable person would believe it.

Third: The information, if true, indicated that an activity had taken, was taking, or would take place that constitutes threatening to use a weapon of mass destruction.

See 18 U.S.C. § 1038(a)(1)(A); *see* Jury Instructions, *United States v. Costagana*, 2:06-cr-00890-FMC, ECF No. 64, at 7 (C.D. Cal. Aug. 22, 2007).

IV. CONSEQUENCES OF CONVICTION

4. Maximum Statutory Penalties:

a. Defendant understands that the statutory maximum sentence the district court can impose for a violation of 18 U.S.C. § 1038(a)(1)(A) as charged in Count Three, is: five years imprisonment; a three-year period of supervised release; a fine of \$250,000 or twice the gross gain or gross loss resulting from the offense, whichever is greatest; and a mandatory special assessment of \$100.

7. Parole Abolished: Defendant acknowledges that defendant's prison sentence cannot be shortened by early release on parole because parole has been abolished.

8. Supervised Release: Defendant understands that supervised release is a period of time following imprisonment during which defendant will be subject to various restrictions and requirements. Defendant understands that if defendant violates one or more of the conditions of any supervised release imposed, defendant may be returned to prison for all or part of the term of supervised release authorized by statute for the offense that resulted in the term of supervised release, which could result in defendant serving a total term of imprisonment greater than the statutory maximum stated above.

9. Factors under 18 U.S.C. § 3553: Defendant understands that the district court must consider the factors set forth in 18 U.S.C. § 3553(a) in determining defendant's sentence. However, the statutory maximum sentence limit the district court's discretion in determining defendant's sentence.

10. Potential Collateral Consequences of Conviction: Defendant understands that, by pleading guilty, defendant may be giving up valuable government benefits and valuable civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to serve on a jury. Defendant understands that once the district court accepts defendant's

1 guilty plea, it will be a federal felony for defendant to possess a firearm or ammunition.

2 Defendant understands that the conviction in this case may also subject defendant to various
3 other collateral consequences, including but not limited to revocation of probation, parole, or
4 supervised release in another case and suspension or revocation of a professional license.

5 Defendant understands that unanticipated collateral consequences will not serve as grounds to
6 withdraw defendant's guilty plea.

7 11. Potential Removal/Deportation Consequences of Conviction: Defendant
8 understands that, if defendant is not a United States citizen, the felony conviction in this case
9 may subject defendant to removal, also known as deportation, which may, under some
10 circumstances, be mandatory; denial of citizenship; and denial of admission to the United States
11 in the future. The district court cannot advise defendant fully regarding the immigration
12 consequences of the felony conviction in this case, but defendant's attorney has advised him
13 about the deportation risks of his guilty plea. Defendant understands that unexpected
14 immigration consequences will not serve as grounds to withdraw defendant's guilty plea.

15 V. FACTUAL BASIS

16 12. Defendant admits that defendant is, in fact, guilty of the offense to which
17 defendant is agreeing to plead guilty. Defendant acknowledges that if defendant elected to go to
18 trial instead of pleading guilty, the USAO could prove defendant's guilt beyond a reasonable
19 doubt. Defendant further acknowledges that defendant's admissions and declarations of fact set
20 forth below satisfy every element of the charged offense. Defendant waives any potential future
21 claim that the facts defendant admitted below are insufficient to satisfy the elements of the
22 charged offense. Defendant admits and declares under penalty of perjury that the facts set forth
23 below are true and correct:

1 On or about February 26, 2023, defendant Joshua A. Corfee called the Airport Control
2 Center of Harry Reid International Airport and stated that he had put a bomb in the airport. In
3 response, airport officials notified the Federal Bureau of Investigation and conducted procedures
4 to confirm whether there was a bomb within the airport. Corfee had not, in fact, placed a bomb
5 at the airport, and admits that a reasonable person would have believed his threat was true at the
6 time it was made. Corfee further admits that, if true, his threat would constitute the threat to use
7 a weapon of mass destruction in violation of 18 U.S.C. § 2332a(a)(2).

8 While Corfee was in Arizona at the time he made the threat, the call was made to an
9 operator in Las Vegas, Nevada, and concerned the airport also located in Las Vegas, Nevada.

10 VI. SENTENCING FACTORS

11 13. Discretionary Nature of Sentencing Guidelines: Defendant understands that in
12 determining defendant's sentence, the district court is required to calculate the applicable
13 sentencing guidelines range and to consider that range, possible departures under the sentencing
14 guidelines, and the other sentencing factors set forth in 18 U.S.C. § 3553(a). Defendant
15 understands that the sentencing guidelines are advisory only, that defendant cannot have any
16 expectation of receiving a sentence within the calculated sentencing guidelines range, and that
17 after considering the sentencing guidelines and the other § 3553(a) factors, the district court will
18 be free to exercise its discretion to impose any sentence it finds appropriate up to the maximum
19 set by statute for the crime of conviction.

20 14. Offense Level Calculations: The parties jointly agree and stipulate that, in
21 calculating defendant's advisory guidelines sentencing range, the Court should use the following
22 base offense level and adjustments; acknowledge that these stipulations do not bind the district
23 court; and agree that they will not seek to apply or advocate for the use of any other base offense
24

level(s) or any other specific offense characteristics, enhancements, or reductions in calculating the advisory guidelines range:

Base Offense Level [USSG § 2A6.1(a)]: 12

Offense Characteristics [USSG § 2A6.1(b)(6)]: -4

Adjusted Offense Level: 8

15. Reduction for Acceptance of Responsibility: Under USSG § 3E1.1(a), the USAO will recommend that defendant receive a two-level downward adjustment for acceptance of responsibility unless defendant (a) fails to truthfully admit facts establishing a factual basis for the guilty plea when defendant enters the plea; (b) fails to truthfully admit facts establishing the amount of restitution owed when defendant enters the guilty plea; (c) fails to truthfully admit facts establishing the forfeiture allegations when defendant enters the guilty plea; (d) provides false or misleading information to the USAO, the Court, Pretrial Services, or the Probation Office; (e) denies involvement in the offense or provides conflicting statements regarding defendant's involvement or falsely denies or frivolously contests conduct relevant to the offense; (f) attempts to withdraw defendant's guilty plea; (g) commits or attempts to commit any crime; (h) fails to appear in court; or (i) violates the conditions of pretrial release.

Under USSG § 3E1.1(b), if the district court determines that defendant's total offense level before operation of § 3E1.1(a) is 16 or higher, and if the USAO recommends a two-level downward adjustment pursuant to the preceding paragraph, the USAO will move for an additional one-level downward adjustment for acceptance of responsibility before sentencing because defendant communicated defendant's decision to plead guilty in a timely manner that enabled the USAO to avoid preparing for trial and to efficiently allocate its resources.

1 16. Criminal History Category: Defendant acknowledges that the district court may
2 base defendant's sentence in part on defendant's criminal record or criminal history. The district
3 court will determine defendant's criminal history category under the sentencing guidelines.

4 17. Additional Sentencing Information: The stipulated sentencing guidelines
5 calculations are based on information now known to the parties. Defendant understands that
6 both defendant and the USAO are free to (a) supplement the facts in this agreement by supplying
7 relevant information to the U.S. Probation and Pretrial Services Offices and the district court
8 regarding the nature, scope, and extent of defendant's criminal conduct and any aggravating or
9 mitigating facts or circumstances; and (b) correct any and all factual misstatements relating to the
10 district court's sentencing guidelines calculations and determination of sentence. While this
11 paragraph permits both the USAO and defendant to submit full and complete factual
12 information to the U.S. Probation and Pretrial Services Offices and the district court, even if that
13 factual information may be viewed as inconsistent with the facts agreed to in this agreement, this
14 paragraph does not affect defendant's and the USAO's obligations not to contest the facts agreed
15 to in this agreement. Good faith efforts to provide truthful information or to correct factual
16 misstatements shall not be grounds for defendant to withdraw defendant's guilty plea.

17 Defendant acknowledges that the U.S. Probation Office may calculate the sentencing
18 guidelines differently and may rely on additional information it obtains through its investigation.
19 Defendant also acknowledges that the district court may rely on this and other additional
20 information as it calculates the sentencing guidelines range and makes other sentencing
21 determinations, and the district court's reliance on such information shall not be grounds for
22 defendant to withdraw defendant's guilty plea.

VII. POSITIONS REGARDING SENTENCING

18. The parties will jointly recommend that the district court sentence defendant to a custodial sentence of time served. In the event that a sentence of time served is outside defendant's advisory Guideline range as determined by the district court, the parties will jointly request a variance to time served. In agreeing to this sentencing recommendation, the parties have taken into consideration all of the factors set forth in 18 U.S.C. § 3553(a) and conclude that time served is a reasonable sentence. The parties have not made any agreements as to any conditions or periods of supervised release.

19. Defendant acknowledges that the district court does not have to follow the recommendation of either party.

20. Notwithstanding its agreement to recommend a sentence as described above, the USAO reserves its right to defend any lawfully imposed sentence on appeal or in any post-conviction litigation.

21. If defendant commits any act that results in the Court finding that defendant is not entitled to a downward adjustment for acceptance of responsibility, the USAO is entitled to argue for any sentence it deems appropriate under 18 U.S.C. § 3553(a). In any such event, Defendant remains bound by the provisions of this agreement and shall not have the right to withdraw defendant's guilty plea.

VIII. WAIVER OF CONSTITUTIONAL RIGHTS

22. Defendant understands that by pleading guilty, defendant gives up the following rights:

- a. The right to persist in a plea of not guilty;
- b. The right to a speedy and public trial by jury;

1 c. The right to be represented by counsel—and if necessary have the court
2 appoint counsel—at trial. Defendant understands, however, that, defendant retains the right to
3 be represented by counsel—and if necessary have the court appoint counsel—at every other stage
4 of the proceeding;

5 d. The right to be presumed innocent and to have the burden of proof placed
6 on the USAO to prove defendant guilty beyond a reasonable doubt;

7 e. The right to confront and cross-examine witnesses against defendant;

8 f. The right to testify and to present evidence in opposition to the charges,
9 including the right to compel the attendance of witnesses to testify;

10 g. The right not to be compelled to testify, and, if defendant chose not to
11 testify or present evidence, to have that choice not be used against defendant; and

12 h. The right to pursue any affirmative defenses; Fourth Amendment or Fifth
13 Amendment claims; any other pretrial motions that have been or could have been filed; and
14 challenges to any adverse pre-trial rulings (unless specifically reserved in the following section).

15 IX. WAIVER OF APPELLATE RIGHTS

16 23. Waiver of Appellate Rights: Defendant knowingly and expressly waives the right
17 to appeal: (a) any sentence imposed within or below the applicable Sentencing Guideline range
18 as determined by the district court; (b) the manner in which the district court determined that
19 sentence on the grounds set forth in 18 U.S.C. § 3742; (c) any other aspect of the conviction,
20 including but not limited to the constitutionality of the statutes of conviction; and (d) any other
21 aspect of the sentence, including but not limited to the constitutionality of any mandatory or
22 standard conditions of supervised release; the denial of any motion for early termination of
23 supervised release; and any order of restitution or forfeiture.
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24. Defendant reserves only the right to appeal any portion of the sentence that is an upward departure or variance from the applicable Sentencing Guideline range as determined by the district court.

25. Waiver of Post-Conviction Rights: Defendant also knowingly and expressly waives all collateral challenges, including any claims under 28 U.S.C. § 2255, to defendant's conviction, sentence, and the procedure by which the district court adjudicated guilt and imposed sentence, except non-waivable claims of ineffective assistance of counsel.

26. Preservation of Evidence: Defendant acknowledges that the USAO and the agencies investigating this case are not obligated or required to preserve any evidence obtained in the investigation of this case.

XI. RESULT OF WITHDRAWAL OF GUILTY PLEA OR VACATUR/REVERSAL/SET-ASIDE OF CONVICTION

27. Consequence of Withdrawal of Guilty Plea: Defendant agrees that if, after entering a guilty plea pursuant to this agreement, defendant seeks to withdraw and succeeds in withdrawing defendant's guilty plea on any basis other than a claim and finding that entry into this agreement was involuntary, then (a) the USAO will be relieved of all of its obligations under this agreement and (b) should the USAO choose to pursue any charge that was either dismissed or not filed as a result of this agreement, or that the government agreed to move to dismiss at sentencing as part of this agreement, or that the government agreed to move to dismiss at sentencing as part of this agreement, then (i) any applicable statute of limitations will be tolled between the date of defendant's signing of this agreement and the filing commencing any such action; and (ii) defendant waives and gives up all defenses based on the statute of limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such action, except to the extent that such defenses existed as of the date of defendant's signing this agreement.

1 31. Defendant understands that both defendant and the USAO are free to argue on
2 appeal and collateral review that the district court's sentencing guidelines calculations and the
3 sentence it chooses to impose are not error.

4 32. Defendant understands that even if the district court ignores any sentencing
5 recommendation, finds facts or reaches conclusions different from those agreed to by the parties,
6 or imposes any sentence up to the maximum established by statute, defendant cannot, for that
7 reason, withdraw defendant's guilty plea, and defendant will remain bound to fulfill all
8 defendant's obligations under this agreement. Defendant understands that no one—not the
9 prosecutor, defendant's attorney, or the Court—can make a binding prediction or promise
10 regarding the sentence defendant will receive, except that it will be within the statutory
11 maximum.

12 **XIV. ADDITIONAL ACKNOWLEDGMENTS**

13 33. Defendant acknowledges that:

14 a. Defendant read this agreement, and defendant understands its terms and
15 conditions.

16 b. Defendant had adequate time to discuss this case, the evidence, and this
17 agreement with defendant's attorney.

18 c. Defendant carefully and thoroughly discussed all terms of this agreement
19 with defendant's attorney.

20 d. Defendant understands the terms of this agreement and voluntarily agrees
21 to those terms.

22 e. Defendant has discussed with defendant's attorney the following: the
23 evidence; defendant's rights; possible pretrial motions that might be filed; possible defenses that
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1 might be asserted either prior to or at trial; the sentencing factors set forth in 18 U.S.C. § 3553(a);
2 the relevant sentencing guidelines provisions; and consequences of entering into this agreement.

3 f. The representations contained in this agreement are true and correct,
4 including the factual basis for defendant's offense set forth in this agreement.

5 g. Defendant was not under the influence of any alcohol, drug, or medicine
6 that would impair defendant's ability to understand the agreement when defendant considered
7 signing this agreement and when defendant signed it.

8 34. Defendant understands that defendant alone decides whether to plead guilty or go
9 to trial, and acknowledges that defendant has decided to enter defendant's guilty plea knowing of
10 the charges brought against defendant, defendant's possible defenses, and the benefits and
11 possible detriments of proceeding to trial.

12 35. Defendant understands that no promises, understandings, or agreements other
13 than those set forth in this agreement have been made or implied by defendant, defendant's
14 attorney, or the USAO, and no additional promises, agreements, or conditions shall have any
15 force or effect unless set forth in writing and signed by all parties or confirmed on the record
16 before the district court.

17 36. Defendant acknowledges that defendant decided to plead guilty voluntarily and
18 that no one threatened, coerced, or forced defendant to enter into this agreement.

19 37. Defendant is satisfied with the representation of defendant's attorney, and
20 defendant is pleading guilty because defendant is guilty of the charges and chooses to take
21 advantage of the promises set forth in this agreement and for no other reason.
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XV. PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

38. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE DISTRICT OF NEVADA

JASON M. FRIERSON
United States Attorney


JEAN N. RIPLEY
Assistant United States Attorney

February 6, 2024
Date

/s/ Joshua A. Corfee
JOSHUA A. CORFEE
Defendant

February 2, 2024
Date

/s/ Joanne L. Diamond
JOANNE DIAMOND
Attorney for Defendant Joshua A. Corfee

February 2, 2024
Date